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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,740	08/12/2002	David L. Haan	71189-1436	6601

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MCGARRY BAIR PC  
171 MONROE AVENUE, N.W.  
SUITE 600  
GRAND RAPIDS, MI 49503

EXAMINER

SNIDER, THERESA T

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/064,740	Applicant(s) HAAN ET AL.	
	Examiner Theresa T. Snider	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/12/2002</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 28,70,76,106,132,176(figure 1), 18,28,50,54,56,58,88,112,138(figure 2) and 54,102,106,108(figure 4). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The disclosure is objected to because of the following informalities:

Exemplary of such:

The title, 'vaccum' should be replaced with 'vacuum'.

Page 5, 0021, 'convention' should be replaced with 'conventional';

'mounted the base' should be replaced with 'mounted in the base';

'as screw' should be replaced with 'as a screw'.

Appropriate correction is required.

### *Claim Objections*

3. Claims 8-11 and 15-18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims fail to further structural limit the claimed apparatus.

### *Claim Rejections - 35 USC § 112*

4. Claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claims 2-11 and 13-18, 'A' should be replaced with 'The'.

Claims 7 and 14, line 1, it is unclear as to whether the 'a cutting blade' is in addition to the 'at least one cutting blade' or one in the same.

Claim 8, line 1, it is unclear as to what is meant by 'the vacuum cleaner is an vacuum cleaner'.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 8 and 12-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sparklin.

Sparklin discloses a housing defining an agitation cavity and suction nozzle (fig. 1, #10,20).

Sparklin discloses a suction source (fig. 1, #16).

Sparklin discloses an agitation brush (fig. 1, #29).

Sparklin discloses an agitation brush drive connected to the brush (fig. 1, #28,27).

Sparklin discloses at least one cutting blade positioned adjacent a portion of the agitation brush drive (fig. 1, #22, col. 4, lines 25-35).

With respect to claim 2, Sparklin discloses the brush drive including an electric motor (fig. 1, unnumbered to right of /connected to #26), an output shaft connected to the brush (fig. 1, #26,27,28,29) and the blade mounted adjacent the shaft (fig. 1, #22,34).

With respect to claim 3, Sparklin discloses the output shaft including a spindle (fig. 1, #27).

With respect to claims 4-5, Sparklin discloses a belt between the shaft and brush (fig. 1, #28).

With respect to claim 8, Sparklin discloses the vacuum cleaner (title).

With respect to claim 12, Sparklin discloses the cutting blade mounted to the housing (col. 2, lines 38-39).

With respect to claim 13, Sparklin discloses the cutting blade mounted adjacent an end of the brush (fig. 1, #29,22).

### *Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 6, 9-11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparklin.

Sparklin discloses a similar vacuum cleaner however fails to disclose different cleaner configurations.

With respect to claim 6, Sparklin discloses the presence of an additional cutting blade (fig. 1, #24). It would have been obvious to one of ordinary skill in the art to determine the most appropriate mounting location of the blade in Sparklin to allow for the most effective capture of foreign material.

It would have been obvious to one of ordinary skill in the art to provide that the nozzle structure of Sparklin, including the cutting blade, could be present on any type of vacuum cleaner requiring a nozzle structure.

#### *Allowable Subject Matter*

11. Claims 7 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: the prior art discloses a vacuum cleaner with a housing defining an agitation cavity and suction nozzle, a suction source, an agitation brush, an agitation brush drive connected to the brush and at least one cutting blade positioned adjacent a portion of the agitation brush drive HOWEVER

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fails to disclose or fairly suggest an additional cutting blade mounted at each end of the agitator brush.

### *Conclusion*

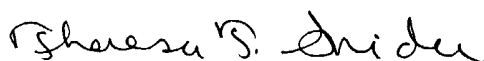
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stanek discloses a vacuum cleaner with a cutting blade for cutting carpet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277.

The examiner can normally be reached on Monday-Thursday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Theresa T. Snider  
Primary Examiner  
Art Unit 1744

9/23/2004